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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: THE APPLICATION OF THE )  
UNITED STATES OF AMERICA FOR: (1) )  
A SEARCH WARRANT FOR THE )  
RESIDENCE AND OUTBUILDINGS )  
LOCATED AT 47538 ARROYO SECO )  
ROAD, GREENFIELD, CA. AND A )  
TOYOTA PICKUP TRUCK BEARING )  
CALIFORNIA LICENSE PLATE 5R76293; )  
AND (2) A CRIMINAL COMPLAINT FOR )  
CRAIG MATTHEW UNDERWOOD )

No.

**AFFIDAVIT OF THONG Q. LEE IN  
SUPPORT OF (1) AN APPLICATION  
FOR A SEARCH WARRANT; AND (2)  
A CRIMINAL COMPLAINT FOR  
CRAIG MATTHEW UNDERWOOD**

I, Thong Q. Lee, being duly sworn hereby depose and say:

I am employed as a Special Agent, (SA) with the Office of Inspector General (OIG),  
United States Department of Agriculture (USDA), assigned to investigate the illegal burning of  
timber and vegetation located on USDA Forest Service system land in the Los Padres National  
Forest (LPNF) in Monterey County, California.

I have been with OIG for approximately six years, four years as Special Agent, during  
which time I have been assigned to the Davis, California, resident office of OIG. As a result of  
my training and employment as a SA with OIG-USDA, I am aware the United States Department  
of Agriculture, Forest Service (USDAFS), operates, manages, and is responsible for the forests  
and lands within each of the National Forests. As an SA with OIG, I am responsible for the  
conduct of criminal investigations as they relate to the violations of federal laws within the

1 investigative purview of the Office of Inspector General-USDA.

2 As a result of my training and employment, I am aware of 18 USC § 1855, which states  
3 "Whoever, willfully and without authority, sets on fire any timber, underbrush, or grass or other  
4 inflammable material...upon the any lands owned or leased by or under partial, concurrent, or  
5 exclusive jurisdiction of the United states...shall be fined under this title or imprisoned not more  
6 than five years, or both."

7 From July 2004 to the present, OIG Special Agent Michael B. Trusler, Forest Service  
8 Special Agent Mary Wischart, and I have been investigating Craig Matthew Underwood for  
9 several violations of § 1855. This affidavit was prepared by me after reviewing Forest Service  
10 memoranda and draft incident reports from Forest Service fire prevention technicians (FPT)  
11 Steve Dean and Tammy Zimmerman; interviewing Underwood, individuals with whom  
12 Underwood works, individuals with information pertaining to Underwood's whereabouts around  
13 the time of the fire, and individuals with expertise in fire prevention and suppression;  
14 surveillance videos footage and photos; visiting the fire scenes; memo of conversations and  
15 interviews; and numerous conversations with Special Agents Trusler and Wischart.

16 SA Wischart said she has been a Special Agent for nineteen years, fourteen as a Forest  
17 Service criminal investigator. She has investigated fires over and as large as 100,000 acres, and  
18 several million dollars to suppress, as well as many small and moderate sized fires. She is a  
19 certified wild land fire investigator, has completed 84 hours of wild land fire investigation  
20 training. She completed eight hours of FBI serial arson training. Agent Wischart has studied  
21 geographic and psychological arson profiling provided by the Forest Service. She has completed  
22 California State University courses on fire weather behavior and fire fighting. In addition, SA  
23 Wischart is an assistant instructor for Wild Land Fire Investigation training for the Pacific  
24 Southwest Region of the Forest Service. SA Wischart has also fought fire for the Forest Service  
25 for one season full time as an assistant engine operator, and several seasons on a call-when-  
26 needed basis. She also supervised a fire prevention program on a Forest Service Ranger District.  
27 Finally, she has a bachelor's degree in Natural Resource Criminal Justice.

1 Agent Wisehart has informed me that through this training and her experience she knows  
2 that firefighters occasionally start arson fires. She has also told me that, in her opinion, all three  
3 fires described herein are serial arson fires.

4 As set forth in more details below, an OIG and Forest Service investigation has revealed  
5 that there is probable cause to believe that Craig Matthew Underwood has violated Title 18,  
6 USC, Section 1855, and Title 18, USC, Section 1001.

#### 7 **PROPERTY TO BE SEARCHED**

8 This affidavit is made in support of an application for a search warrant for the residence  
9 and any garages and out buildings of any kind located at 47538 Arroyo Seco Road, Greenfield,  
10 CA 93927, and a red in color, Toyota pickup truck license plate CA 5R76293 registered to Craig  
11 Matthew Underwood, which is further described in Attachment A.

12 On October 4, 2004, during an interview, Craig Underwood told Forest Service Special  
13 Agent Mike Goff and me that he resides at 47538 Arroyo Seco Road, Greenfield, CA 93927.  
14 According to the United States Post Office, located in Greenfield, CA, Underwood is currently  
15 receiving mail at 47538 Arroyo Seco Road, Greenfield, CA. A check of the California Law  
16 Enforcement Telecommunications System (CLETS) showed that Craig Underwood is the  
17 registered owner of a 1986 Toyota pickup, License Number 5R76293.

#### 18 **ITEMS TO BE SEIZED**

19 The items to be seized are more particularly described in Attachment B.

#### 20 **FACTS**

21 The United States Army operates a base known as Fort Hunter Liggett. It is generally  
22 located west of King City, California, in Monterey County. Fort Hunter Liggett is essentially  
23 surrounded on three sides by land owned by the U.S. Forest Service as part of the Los Padres  
24 National Forest. Members of the public are allowed to travel across the Army's land to enter the  
25 National Forest, although they have to stop at sentry gates when they enter the fort and provide  
26 proof of insurance and driver license.

27 Between July 28, 2004, and September 22, 2004, some person intentionally and serially  
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1 set three wild land fires in Los Padres National Forest. All three fires occurred along the Indians  
2 Arroyo Seco Road between Fort Hunter Ligget (FHL) and a Forest Service fire station at Arroyo  
3 Seco. The three fires burned a total of some 800 acres, costing approximately \$2,500,000 just in  
4 suppression costs alone. The third fire was the largest in terms of burned acreage and by far the  
5 suffered the most destruction, destroying some 786 acres. The three fires have been named the  
6 Memorial Fire, the Slide Fire, and Fred's Fire. Memorial occurred on July 28, 2004, Slide on  
7 August 14, 2004, and Fred's on September 22, 2004.

8 The three fires share similar characteristics, indicating the same person likely ignited  
9 them. All three fires started near barely used campfire rings, in areas where campfire rings are  
10 rarely, if ever, observed. Two of the three fires were lighted during periods of high humidity,  
11 when it is very rare for fires to accidentally or spontaneously start. All three fires were lit in  
12 areas containing the same vegetation type and similar steep terrain. All three fires were near the  
13 same road. And the fires all occurred only a few miles apart in a period of less than two months.

14 Physical evidence also suggests the fires may be connected. A garment tag found at the  
15 Memorial fire with its SKU number ( i.e. a bar code) 0-457228-11-2 was investigated, and  
16 determined to come from a towel sold at a K-Mart. At the second fire, a partially burned towel  
17 without a SKU number was found and collected. Both have been submitted to a California  
18 Department of Justice forensics lab for analysis and comparison.

19 K-Mart personnel have told us that SKU number 0-457228-11-2 belongs to a particular  
20 type of towel sold by K-Mart. They also told us that SKU numbers 7-69779-03114-0, 7-69779-  
21 03117-1, 7-69779-03115-7, 7-69779-03118-8, 7-69779-03116-4, and 7-69779-03119-5 apply to  
22 very similar types of towels, varying only in details such as color, etc.

### 23 The Memorial Fire

24 On August 3, 2004, OIG received a complaint from officials of the Forest Service, who  
25 stated that on July 28, 2004, at approximately 7.35 a.m., the Los Padres National Forest (LPNF)  
26 received a report of fire in the LPNF near the "Indians" area of the Monterey Ranger District,  
27 near Fort Hunter Ligget (FHL) California.

1 Two people separately reported the Memorial Fire within two minutes of each other, at  
2 7:35 a.m. and 7:37 a.m., respectively. One person, Steve Chambers, a resident living nearby,  
3 reported it via telephone to FHL emergency services. FHL relayed the report to the Forest  
4 Service's Los Padres Communication Center (LPCC) in Monterey, California.

5 The second person, a nearby resident (Merle Ranch), Sal Elizondo, is a retired Forest  
6 Service fire prevention technician who still works as a volunteer for the Forest Service. He  
7 reported the fire via Forest Service radio.

8 FHL Emergency dispatched fire suppression unit Engine 8838 who arrived on the scene  
9 of the fire at approximately 8:28 a.m. Chief 8803 reported that on arrival the fire had consumed  
10 about five acres, and it was burning in heavy fuel with a slow rate of spread. At approximately  
11 8:36 a.m., Sal Elizondo returned to the fire. He identified and protected an area of  
12 approximately/estimated 36' x 36' that he said was the area where the fire started.

13 At 8:30 a.m., Steve Dean, (Patrol 18) a Forest Service wild land fire investigator and fire  
14 protection technician (FPT), was dispatched to the scene. While en route to the fire scene he  
15 instructed the Los Padres Communication Center to request Fort Hunter Liggett Range Control to  
16 begin monitoring all vehicles leaving the installation.

17 At approximately 9:40 a.m., Dean arrived at the scene and took control of the area  
18 protected by Elizondo. Dean has said he is very familiar with this region, and said the protected  
19 area is a "definite open campground." i.e., an area where there is no developed campsite, but it is  
20 commonly used as a campsite by people who just pull off the road and camp.

21 Dean reported he later met with Monterey County Deputy Sheriff Stairwait who told him  
22 he had conducted field interviews with a couple (Nathaniel Gillies and Jessica Austin) that were  
23 camping at the Forest Service Escondido Campground. This campground is located  
24 approximately two miles north of the fire scene. The road to the Escondido campground has a  
25 gate across it approximately one eighth of a mile north past the campground, denying its use to  
26 motor vehicles

27 On July 27, at approximately 9:00 or 9:30 p.m., Gillies and Austin said they had observed  
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1 a red 1980's Toyota pickup truck with over sized tires pull into the Escondido campground. A  
2 male driver operated the vehicle, no other individuals were visible inside the vehicle, and no  
3 license plate was recorded. The couple said when the Toyota departed the vehicle's tires spun out  
4 according to Deputy Sheriff Stairwait.

5 On August 20, 2004, SA Wisehart conducted a follow up interview with one of the  
6 Escondido campers, Douglas Gillies, who provided additional details about his sighting. Gillies  
7 said he was on his way to join his son and his son's girlfriend (Nathaniel Gillies and Jessica  
8 Austin) camping when he observed a light colored pickup truck with a slide-on camper parked at  
9 another campground called the Memorial campground. He continued traveling north past  
10 Memorial Campground to the Escondido Campground where he met the rest of his party. No  
11 other persons were present. At approximately 9:00 p.m., a Toyota pickup truck containing one  
12 person drove into a campsite approximately thirty-five yards from Gillies campsite. The driver  
13 never left his vehicle. A few minutes later his son's dog began barking and the Toyota pickup  
14 departed southbound back towards Memorial campground. He surmised that the driver of the  
15 Toyota most likely camped at the Roosevelt creek turn out, which lies between the two  
16 campgrounds. He added this was the only other place to camp between the two campgrounds.  
17 He had the impression this person wanted to be alone because his party had already occupied the  
18 Escondido campground, and his son's dog was barking. In addition, the driver never exited his  
19 vehicle. Gillies also noted that this person had already by-passed the Memorial campground.

20 On July 28, 2004, at approximately 10:42 a.m., FPT Tammy Zimmerman, arrived at the  
21 scene. She made a sketch of the area, and identified evidence within the protected area believed  
22 by Elizondo to be the origin of the fire. Dean collected all of the evidence, including a price tag  
23 with a SKU number (bar code), at this location and later transferred the evidence to SA Wisehart.  
24 During Zimmerman's examination of the protected area, she identified an area, smaller in scope  
25 which measured approximately 7'x6' in diameter that she thought was an origin site.

26 At 1:00 p.m., Dean and Zimmerman departed the fire scene and issued instructions to the  
27 incident commander to keep people out of the protected area. Both patrols proceeded north to the  
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1 Escondido campground and met with day campers who stated they were not present the evening  
2 before and were unable to provide any information specific to the fire investigation.

3 At 2:30 p.m., Dean and Zimmerman interviewed Steve Chambers who reported the  
4 fire. His summer residence is located approximately one quarter of a mile south of the Memorial  
5 fire site. Chambers said he awoke at approximately 2:00 a.m. and exited his residence to use the  
6 restroom. He said he smelled smoke. He discounted the smell and assumed it originated from the  
7 same general direction of the Memorial campground.

8 Approximately five hours later he got back up and exited his residence and saw smoke  
9 emanating from the same general direction. He then traveled to a site where he knew he could  
10 get cell phone reception, and called 911.

11 At 3:00 p.m., Dean and Zimmerman traveled to the FHL main gate located on Jolon  
12 Road. While en route they made contact with Elizondo and he commented that earlier, while he  
13 was at the Memorial fire, he felt underneath the ashes inside the rock ring and the ashes were still  
14 lukewarm indicating the fire ring had been used in the last 24 hours. He also told them that he  
15 did not see anyone at the fire scene when he first arrived.

16 At approximately 3:30 p.m., Dean and Zimmerman arrived at FHL's police station and  
17 emergency services dispatch center. They reviewed the digital video recording from the night  
18 before which was automatically recorded by the installations main gate security camera system.  
19 The video systems generate an automatic time and date display on the screen. Dean and  
20 Zimmerman observed that at 8:18 p.m. on July 27<sup>th</sup>, the recording showed a red Toyota pick up,  
21 bearing California license plates 5R76293, enter the main gate of FHL. This vehicle matched the  
22 description given by witnesses who had observed the same truck on the evening of July 27, 2004,  
23 at the Escondido campground. The recording also showed the same vehicle departing the main  
24 gate at approximately 6:50 a.m. the next morning, i.e., July 28, 2004. The same male driver of  
25 the vehicle was observed in both video capture sequences.

26 Dean and Zimmerman then conducted a license plate check through the State of  
27 California, Department of Motor Vehicles (DMV) and were informed the registered owner of the  
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1 red Toyota was Craig Matthew Underwood, residing at 47538 Arroyo Seco Road in Greenfield,  
2 California.

3 Dean and Zimmerman also recognized the image of the driver of the Toyota pickup as a  
4 Forest Service employee who is assigned as an assistant fire engine operator on engine 19  
5 stationed at Arroyo Seco. Zimmerman later told Agents Trusler and Wischart and myself that  
6 when she first looked at the recording and saw the driver of the Toyota, she remembered thinking  
7 to herself that he looked familiar-like Craig Underwood.

8 Through my conversations with FHL police officers, I learned individuals entering the  
9 FHL installation must present their drivers license and vehicle registration prior to the entry. This  
10 information is recorded on a visitors pass and given back to the visitors. The information is not  
11 recorded or archived by the security personnel at the gates.

12 SA Trusler reviewed Dean's draft incident report, which stated that on July 28, 2004, at  
13 approximately 8:32 a.m., Underwood responded to the Memorial fire as a member of Engine 19,  
14 and arrived on the scene at approximately 9:52 a.m. Dean did not have any reason to think that  
15 Underwood was a suspect at the time they fought the fire. According to the report, Underwood  
16 was observed by Dean operating the control panel on Engine 19, which was parked near the  
17 protected area of the fire scene. Underwood assisted Dean taking measurements of the protected  
18 area at approximately 10:30 a.m. In an unsolicited statement during this time, Underwood told  
19 Dean his (Underwood's) father had previously brought Underwood to this same location.

20 Dean's report also stated that Underwood, as a member of Engine 19, was present on the  
21 scene until 8:00 p.m., and was able to watch Dean and Zimmerman conduct origin and cause of  
22 fire investigation during the morning and afternoon hours. In addition, Dean's report stated that  
23 during this time, Underwood never mentioned to either Dean or Zimmerman that he had been  
24 present in the Memorial fire area the previous evening.

25 At approximately 7:00 p.m. July 28, 2004, Dean and Zimmerman returned to the  
26 Memorial fire scene to conduct a second examination of the protected area. They conducted a  
27 second inspection of the rock ring, which Dean reported had minimal amounts of ash. Dean had  
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1 obtained the weather conditions for the time period prior to the estimated start of the fire and the  
2 time period incident to the fire's detection. Dean learned that a minimal amount of wind had  
3 been present during this time. Both Dean and Zimmerman concluded that, based on the ash  
4 amounts in the rock ring, lack of wind, coupled with the slow rate of spread of fire, the rock ring  
5 appeared to be a diversion and not the cause of fire. They decided the original area that had been  
6 protected as the area of origin, was incorrect.

7 Dean and Zimmerman based their findings on additional factors they observed during  
8 their second examination of the scene. Their second inspection of the rock ring disclosed the  
9 presence of a minimal amount of fuel inside the rock ring and the fact that only a few of the  
10 branches had actually burned. Significantly, there was no ash pattern or burned material between  
11 the rock ring to the burned area. The amount of heat generated from the rock ring was minimal as  
12 evidenced by the partial staining of the rocks inside the ring. A gap in the rock ring on the  
13 northeast side could have been constructed to allow ashes to escape, however, there was no  
14 burned vegetation noticed from the gap to the burned area.

15 In Dean's report, he noted that during his fifteen years of fire related experience he could  
16 not recall seeing what he referred to as an incomplete fire ring. In addition, he said that even  
17 children would complete the ring. In summation, Dean and Zimmerman agreed that the fire ring  
18 appeared to have been staged, and the actual cause and origin of the fire required further  
19 investigation.

20 Dean gave instructions to the overnight incident commander (H. Laugham) to continue to  
21 restrict access to the protected area, and Dean departed the scene at 9:00 p.m. Dean informed the  
22 incident commander (M. Boone) to release the protected area at 6:00 p.m., the next day, July 29,  
23 2004.

24 On July 30, 2004, Dean met with Forest Service SA Wisheart and proceeded back to the  
25 Memorial Fire site. After a brief examination of the turnout, rock ring and burns patterns in the  
26 drainage area, SA Wisheart agreed with Dean and Zimmerman's opinion that the rock ring  
27 appeared as if it had been staged to make it appear that the cause of the fire was an escaped camp  
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1 fire. SA Wischart agreed that the cause of the fire was not an escaped campfire.

2 SA Wischart also agreed the area, which was initially protected as the actual origin was  
3 not helpful in determining the origin of the fire. SA Wischart walked up the drainage and noted  
4 an area approximately 40 to 50 feet up the drainage from the turnout. This area had burn  
5 indicators showing the fire had burned in all-different directions from this area, which is an  
6 indication that it is the area where the fire had started. SA Wischart thinks that this was a site of  
7 origin. She also noted that burn indicators from this area toward the campfire showed signs of  
8 fire 'backing,' or burning slowly downhill, toward the campfire ring, i.e., the wrong direction for  
9 a fire that had supposedly escaped from the fire ring.

10 SA Wischart continued to walk up the drainage and noted another area on the north side  
11 of the creek bed that also showed burn indicators of fire burning in several different directions  
12 from a central area, indicating another origin site.

13 SA Wischart conferred with Dean and concluded the fire was a willfully set incendiary  
14 fire. SA Wischart based this on the following. There was no evidence of lightning, motor vehicle  
15 tracks, equipment, children playing with incendiary devices, equipment use, or other ignition  
16 causes. The fire was ignited during weather and wind conditions that make accidental or  
17 spontaneous ignition unlikely. Also, burn indicators showing a slow creeping fire back downhill  
18 toward the campfire, showed the fire did not originate from the campfire.

19 No devices were found in the origin areas, indicating 'hot sets' commonly found in wild  
20 land arson-type fires. SA Wischart defined a 'hot set' as a fire ignited by a device, which is  
21 removed from the fire site, such as a cigarette lighter, match, etc.

22 SA Wischart recommended that additional personnel, experienced in wild fire origin  
23 determination, would be desirable to assist in determining the actual origin(s) of the fire.

24 On July 31, 2004, at approximately 11:30 a.m., Dean and Zimmerman met with FPT  
25 Heinz and traveled to the Memorial fire site and observed burn patterns. According to SA  
26 Wischart, burn patterns are the 'tracks' left by fire showing how the fire burned and in what  
27 directions. Heinz determined the origin area to be located in the drainage area approximately 30-

1 60 feet north of the rock ring. This was the same area identified by SA Wisehart. Fire  
2 suppression crews had disturbed the origin area during their suppression efforts. However,  
3 enough burn indicators were left intact to determine this area to be the origin. The trio departed  
4 the scene at 6:00 p.m.

5 On August 1, 2004, at approximately 10:30 a.m., Dean, Zimmerman and Heinz returned  
6 to the Memorial Fire location to conduct further fire investigation of the scene. According to  
7 Heinz, the burn indicators revealed the same origin area approximately 60 feet North of the rock  
8 ring (campfire) as previously identified by Dean and SA Wisehart. Heinz also concurred, the  
9 burn patterns showed the fire did not burn from the 'rock' ring but toward it. Heinz concluded  
10 there was only one origin. He explained that the area north of the creek bed (place where SA  
11 Wisehart and Dean believed to be the second origin) burned due to the fire 'spotting' across the  
12 creek from the more intensely burning vegetation on the south side of the creek.

13 The damage sustained during the Memorial fire includes the loss of timber, and the fire  
14 fighting costs associated with a helicopter tanker, which extinguished the blaze. Fire suppression  
15 costs are initially estimated at approximately \$100,000. Resource damage has not yet been  
16 determined. There were no known injuries or deaths associated with this unlawful fire.

#### 17 The Slide Fire

18 Seventeen days after the Memorial fire, on August 14, 2004, at approximately 5:30 p.m.,  
19 Los Padres National Forest received a report of a three small fires near the vicinity of the Arroyo  
20 Seco, Indians Road at the Santa Lucia trail head. The Monterey Ranger District in King City,  
21 California, manages this location. A male individual identified as Bob Eaton, Tassajara Road,  
22 Carmel Valley Road, was on horseback in the area and came into contact with a Forest Service  
23 fire crew assigned to Engine 19, Arroyo Seco Fire Station. These personnel were on the Arroyo  
24 Seco, Indians Road near the Marblehead trail head in the area emptying trash as part of their  
25 normal duties. They are identified as firefighters Richard Murdock and Jeff Bailey.

26 Eaton told the firemen he had been traveling north on the Arroyo Seco, Indians Road and  
27 had observed three black spots which appeared to be recent fire activity, but the fire was out.

1 Eaton said the site was about three miles south of their current location near a big rock slide.  
2 Access to this road is denied to non- authorized motor vehicles by a large gate.

3 At approximately 6:00 p.m., August 14, 2004, Captain Keith Hughes and the crew of  
4 Engine 19 met Eaton at the parking lot near the entrance of the Arroyo Seco gorge. Eaton told  
5 Captain Hughes about the fire spots. Captain Hughes notified his superior who told him to check  
6 it out the next morning because the fire was out.

7 At 8 00 a.m., August 15, 2004, Captain Hughes instructed Craig Underwood to assemble  
8 coworkers Murdock and Bailey and proceed with the fire department's utility truck to the area,  
9 and verify Eaton's earlier report of fire on the Arroyo Seco, Indians Road. In addition to the  
10 utility truck, the trio took mountain bikes, a global positioning system (GPS) and a digital  
11 camera, personally owned by Captain Hughes.

12 This road had been closed to vehicular traffic since 1994 due to a large landslide in the  
13 roadway. The slide is located approximately eight to ten miles south of the Arroyo Seco fire  
14 station. The road is maintained up to the Marblehead trail head. The three firemen drove a  
15 portion of the way and then traveled by mountain bikes the remaining distance to reach the fire  
16 scene at approximately 9:30 a.m.

17 At approximately 9:45 a.m., Zimmerman was contacted by phone by Captain Hughes.  
18 Hughes told her that there were three black spots on the Arroyo Seco-Indians Road and Santa  
19 Lucia trail head, and he requested she respond to conduct the fire investigation. Zimmerman's  
20 report states Captain Hughes described the fires as small, one of which was approximately 100  
21 feet long by 20 feet wide. Captain Hughes said three of his firefighters were on the scene and  
22 were equipped with a camera and GPS. Hughes said the fire was actually reported yesterday, but  
23 after he conferred with his superiors, he was instructed to check it out today. Hughes had not  
24 contacted the LPCC center but was about to. Zimmerman asked Hughes if he had named the fire  
25 yet and he responded no, she suggested the name, Slide.

26 According to Zimmerman's draft report, the three responding firemen did not notice any  
27 smoke or flames. They observed the first burned area fire on the junction of the Arroyo Seco-

1 Indians Road and the Santa Lucia trail Firemen Underwood and Murdock hiked in a westerly  
2 direction down the trail and observed another small burned area. Underwood remained at the  
3 second location while Murdock continued down the trail approximately one-quarter mile more to  
4 check for additional fires. Murdock returned and reported there were no additional fires.

5 Fireman Bailey continued traveling north and located two additional fires. Bailey walked  
6 an additional one half mile past the northern two fires but did not observe any additional  
7 evidence of fires.

8 At approximately 11:00 a.m., Zimmerman arrived at the Arroyo Seco station and received  
9 a briefing from Hughes. Hughes stated the largest of the burned areas was approximately 150 feet  
10 long by 50 feet wide. Hughes said he received a radio call from Underwood who said they had  
11 found smoke in one of the spots.

12 Shortly after 11:30 a.m., Zimmerman, while on her way to the gated area leading to the  
13 restricted Forest Service road, stopped and spoke with two campground concessionaire  
14 employees, identified as Quinlog and Hilsabeck. Zimmerman told the pair she was en route to a  
15 small fire and asked them if they had seen anything. Quinlog stated at approximately 9:00 a.m.,  
16 this date, he and Hilsabeck had made contact with two motorcycles with riders near the Northern  
17 access gate of the Arroyo Seco Indians Road. He described one motorcycle as a yellow mini bike  
18 and the other as a red Honda 90. No further description was obtained. The riders were informed  
19 no motorcycles were allowed beyond the gate. The riders then turned around and departed the  
20 area. Quinlog said he thought the riders of the motorcycles had arrived at the campground the day  
21 before and had stayed the night.

22 Zimmerman continued her travel to the Slide fire site and was met on the road by  
23 Fireman Bailey approximately one mile past the Marble Peak Trail head. Bailey assisted  
24 Zimmerman in negotiating a washed out section of the road. Zimmerman and Bailey parked her  
25 patrol vehicle at the same location where the three firemen had parked their utility truck. It took  
26 Zimmerman and Bailey approximately ten to fifteen minutes to walk the estimated one-half mile  
27 to the fire site, arriving at approximately 1:30 p.m. Underwood and Murdock met her and Bailey  
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1 at the trail head.

2 Zimmerman's first observation of the scene included the following; steep terrain, rugged  
3 and inaccessible, surrounded by the Ventana Wilderness Area. The vegetation is dense, with  
4 heavy brush of chamise, manzanita, scrub oak, small oak trees and sparse grass. There was a  
5 high concentration of dead fuel intermixed with live fuel.

6 Zimmerman observed a terry cloth type rag with freshly burnt edges lying on the ground  
7 not far from the first visible fire site. The rag was surrounded by pink flagging which was held in  
8 place by rocks.

9 Later, On August 25, 2004, SA's Trusler and Wisehart met again with Zimmerman and  
10 she said she did not know who of the three firemen actually flagged the area. Zimmerman  
11 photographed the rag. She observed additional pink flagging around the lower edge of the fire  
12 she labeled as fire site B.

13 On August 15, 2004, Zimmerman was surprised to find that the fire sites were  
14 significantly different than what Captain Hughes had described to her. She realized that the fires  
15 were not merely three black spots. She asked Murdock to take weather readings for her and  
16 record the results, which he gave to her. She sketched the area and discovered there were four  
17 separate locations, which she labeled A-D.

18 Fire Sites A & B were situated on the northwest facing slope. Fire Sites C & D were  
19 situated on the southwest facing slope. Underwood provided Zimmerman with a briefing on their  
20 response and what they have observed. Underwood said all of the fires were on uphill side of the  
21 roads. He had taken photographs, sketched and took GPS coordinates of the sites. Zimmerman  
22 asked for this information and he gave it to her.

23 Zimmerman described Fire site A as being down a trail, which had not been  
24 maintained for years making walking difficult. Site A was smaller in size than Site B. Site A was  
25 located approximately 90' from Fire site B.

26 The following information was also acquired from FPT Zimmerman's Wild Land Fire  
27 Investigation, Origin and Cause draft report, and depicts her findings specific to each Slide fire

1 site A-D.

2 Site A: Indicators include rock staining, cupping on a burned stick, and additional  
3 rock staining. This fire was on the northwest-facing slope. Indicators reveal a lower intensity  
4 burning. Ground Fuels were consumed, but canopy fuels remained. More shading on the  
5 northwest slope, resulting in cooler temperatures, and higher fuel moisture. She did not believe  
6 this fire was a spot fire caused by a firebrand from sites B, C, or D. She recorded a measurement  
7 of 92 feet, which was taken between site A, and B. Arson has been included as a causative factor  
8 to this fire. An incendiary device was not found. Motorcycle exhaust or hot metal fragments are  
9 excluded. In her opinion, a motorcycle rider would not have made the effort to ride down the trail  
10 in the overgrown condition it was in. Fire investigators did not observe footprints because the  
11 scene had already been disturbed by firefighters. The firefighters did not make mention of  
12 footprints or tire tracks on the trail. Fire A is the smallest of the four fires.

13 Site B: Indicators include rock staining on the southwest side of a wood post, damage  
14 differential comparisons on several small pieces of wood and leaves, which point back to an  
15 origin area near the road and beginning of the trail. No incendiary device or other evidence was  
16 found.

17 Site C. There was an approximate distance of 500' between site B and site C. A  
18 campfire ring was located on the road at the heel of the fire and this fire was the largest of the  
19 four fires. The fire area was very steep and rocky. Location of the campfire was in an unlikely  
20 place with a west-facing aspect, narrow road. Signs of two previous campfires were observed in a  
21 saddle area turnout near the origin of site B, a more likely spot for a campfire. Some low  
22 intensity ash remains in the center of the campfire ring. There was a burned trail from the  
23 campfire ring, which crept out into the vegetation. Sticks were placed on/around the campfires  
24 with ends pointing towards the campfire were burned. There were hotter burning intensities on  
25 this fire. The fire made one significant uphill run before it burned into a rock cropping. The fire  
26 sustained more residency (burned for a longer time in one place) in the presence of larger fuels.  
27 Fuel consumption was greater. The fire got vertical momentum from radiant/convective heat.

1 The campfire is included as a causative factor for starting this fire.

2 Site D: There was an approximate distance of 150' between site C and site D.

3 Indicators include depth of char on wood sticks, leaf curling, rock staining, and white ash. Rock  
4 staining was observed on the interior area of the rocks, which faced the fire from the campfire,  
5 hotter burning intensities on this fire. Fire sustained more residency (burned longer in the same  
6 place) in the presence of large fuels. Fuel consumption was greater. The fire acquired vertical  
7 momentum from radiant/convective heat.

8 Though no devices were found, Zimmerman's summation of the fires stated that the  
9 cause determined to have been incendiary. Burn indicators suggest four separate intentionally set  
10 fires. Ignitions appear to have occurred during late night or early morning, when temperatures  
11 were cooler in the initial burning phases. In the heat of the day, these fires would have had the  
12 potential for major uphill runs and rapid fire spread and growth. There were no known injuries  
13 or deaths associated with this unlawful fire.

#### 14 Discussion with Underwood After the Slide Fire

15 On August 15, 2004, Zimmerman returned to the Arroyo Seco-Indians Road and met with  
16 Underwood. Underwood told Zimmerman that he had observed horse prints and bike tire prints  
17 in the area of the fire. Underwood said he had seen a motorcycle during his last days off. He  
18 said this occurred on or about Tuesday, August 10, or Wednesday, August 11, 2004, Zimmerman  
19 was unsure about the date. Underwood said at the time he made the observation, he had been  
20 swimming in one of the pools on the river, which was located above the Arroyo Seco day use  
21 area. This location is in very close proximity of Underwood's place of duty/residence and  
22 location of Fred's Fire.

23 Underwood said he remembered looking up from the pool and seeing the motorcycle  
24 approximately 400-500 feet away Underwood said he thought the motorcycle had been riding  
25 the roads for some time but offered no further explanation to the comment. He said this could be  
26 the same motorcycle sighting as the one he had seen over at the Memorial fire July 28, 2004.

27 Underwood said the second day after the Memorial fire, the fire crew was mopping up



1 when he saw a motorcycle driving southbound past the Memorial campground. He had not seen  
2 the motorcycle on the road driving north, so he assumed it originated from the direction of  
3 Arroyo Seco. He described the motorcycle as a dirt bike with a blue front fender and big knobby  
4 tires, which were muddy. The driver was wearing blue jeans and a helmet.

5 Zimmerman and Underwood walked southbound up the road from Fire site B and  
6 traveled to fire site C. It was located approximately 500' from Fire site B. This fire was located  
7 on a very rocky and steep embankment covered in heavy brush. A rock campfire ring was located  
8 on the road itself. Through her examination she judged this same location to be the origin. She  
9 and Underwood then walked approximately 150' further south to fire site D.

10 Zimmerman described fire site D as the same basic terrain as fire site C. While the pair  
11 walked to this location, Underwood told Zimmerman about the presence of a burnt stub (a small  
12 branch or stick sticking out of the ground), but Underwood said he could not determine if it was  
13 related to this (Slide) fire or the Marble Cone fire, more than twenty years ago.

14 While the pair walked, Underwood directed Zimmerman's attention to a cigarette butt  
15 lying on the dirt, uphill on the cut bank approximately 2-3 feet from the road base. Zimmerman  
16 stopped briefly to look at the cigarette butt, and then continued walking to Fire site D.

17 During Zimmerman's later site examination she mistakenly overlooked the cigarette butt  
18 and it could not be located. On August 25, 2004, SA's Trusler and Wisheart asked Zimmerman  
19 about the missing cigarette butt. She stated that when she and Underwood stopped and looked at  
20 it, she did not see any evidence of burnt materials around it.

21 As Zimmerman and Underwood walked back to the Fire site A, Underwood volunteered  
22 his hypothesis of the situation. He said he believed these fires might have started at night, or the  
23 cool of the morning, because the fires did not take off. He said it looked suspicious.

24 Zimmerman and Underwood met with Murdock. Zimmerman asked for any theories he  
25 might have. Murdock said he believed there were four separate fires; the campfire ring appeared  
26 to be a decoy, and surmised that maybe the fires were supposed to burn into one.

27 Murdock was asked if he had seen any motorcycles on the road and he replied, the day  
28

before, (August 14, 2004) he had seen two motorcycles with riders at the gate preparing to enter the gorge. He described the motorcycle as a yellow mini bike and a red Honda. Murdock said he had informed the riders they were not allowed into the area and they turned around and departed the area. Two of the firefighters (Underwood and Martin) were dispatched to another fire incident and departed the area. Bailey was left behind.

#### Fred's fire

On September 22, 2004, at approximately 7:30p.m., USDA Forest Service, Los Padres National Forest, received a fire report of a fire at the Arroyo Seco day use area. At that time the fire, called the "Fred's fire," was reported to be approximately 5 acres in size. The fire quickly grew to over 200 acres. It was finally contained after four days of suppression efforts, on September 26, 2004. The total size was estimated to be 786 acres. Fire suppression costs were over \$2,400,000. Resource damage to the steep drainages has yet to be determined.

California Division of Forestry Engines from Soledad and King City arrived at the Arroyo Seco day use at approximately 8:20 p.m. on the first day, i.e. September 22, 2004. One of Hughes' crew members, Craig Underwood, arrived from his day off at approximately 8:30 p.m. Underwood and Engine 19 firefighters regular days off are Tuesday and Wednesday. Steve Dean, arrived at 10:05 p.m. and protected the origin area which was located across the Arroyo Seco River from the pump house next to the day use area. Tammy Zimmerman, arrived at the origin at 11:30 p.m. and protected the origin with Dean. Zimmerman and Dean stayed and protected the origin area all night and into the next day.

On September 23, 2004, I interviewed Steve Quinlog and his wife Marcia. The Quinlogs work as concession hosts/camp managers for the Arroyo Seco day use area. They said that on September 22, they saw two women camping at the Arroyo Seco day use area but, otherwise, they did not see anyone else at the day use area that day. The Quinlogs had not seen the women before. Sometime after 8:00 p.m., the women saw the Fred's fire and approached Mr. Quinlog to see if they should leave the area. Later, a local deputy sheriff, who was helping respond to the fire, asked Mr. Quinlog if there were any campers at the day use area. Mr. Quinlog mentioned

1 the two women. The deputy sheriff then sought out the women and told them to leave the area,  
2 which they did.

3 On September 24, 2004, at approximately 7:30 p.m. night security arrived and relieved  
4 the investigators from protecting the fire origins. Later that night, an unknown person entered  
5 the first origin site without authorization by bypassing security and protection flagging. The  
6 person left two footprints and removed a glass marble with green swirl that FPT Dean and Forest  
7 Fire Investigator Cliff Williams had noticed the previous day. It had been resting twenty feet  
8 from where the first origin had been traced by burn indicators. Dean had photographed the site  
9 the previous day and the marble with undisturbed ash.

10 By September 25, 2004, the investigators determined that there were five origin areas for  
11 this fire. Investigators used a Sirche hydrocarbon tester, or "sniffer." The presence of  
12 hydrocarbons at an origin site indicates that accelerants, such as gasoline or diesel fuel, was  
13 used. The Sirchie hydrocarbon detector alerts the operator to the presence of hydrocarbons by an  
14 audible beep and light emitting graduated diode (LED) when it detects hydrocarbons. The Sirche  
15 detector alerted on the presence of a high volume of accelerant at four of the five original  
16 suspected origins. Origin site number two was ultimately eliminated as an origin site because of  
17 the possibility of being caused by a spot fire.

18 Soil and ash samples were collected and recorded at each site, along with control samples  
19 away from each site. The soil/ash and control samples from the origins were taken and submitted  
20 by SA Wisehart to the California Department of Justice Crime lab in Watsonville, CA. The  
21 cause of the Fred fire is determined to be human caused incendiary. On November 16, 2004, SA  
22 Wisehart provided a copy of California Department of Justice Bureau of Forensics Services lab  
23 report. This report was dated November 8, 2004 and was authenticated by Lynn M. Melgoza,  
24 Senior Criminalist.

25 This report documents the examination of the ash and soil samples to include control  
26 samples from the five suspected origin sites taken by SA Wisehart pursuant to her crime scene  
27 investigation of the Fred's Fire. In summary, the report states that the lab was not able to identify  
28

1 any ignitable liquids in the samples submitted.

2 The report does state that during testing the sample from origin number four, exhibited  
3 some similarities to ignitable liquids, but there were major inconsistencies. These results could  
4 be caused by a bacteria called pyrolysis, which have similarities to ignitable liquids. Pyrolysis  
5 products can form when wood, plastics, asphalt and many other substances decompose upon  
6 being heated. Melgoza was unable to identify an ignitable liquid from the sample from origin  
7 four.

8 Test results on the control samples from origin one exhibited some similarities to  
9 ignitable liquids, but there are major inconsistencies. These results could be produced by  
10 pyrolysis. She did not identify an ignitable liquid in item 2 (origin 1). Test results on the sample  
11 lower batch from origin four (item 5) are inconclusive. The data had some similarities to  
12 ignitable liquids, but it was too weak to interpret.

13 She did not identify any ignitable liquids in the following control samples: from origin 3  
14 (item 4), from origin 3 (item 3, and from origin 5 (item 8).)

15 She did not identify any ignitable liquids in the following control samples: from origin 3  
16 (item 4). From origin 4 (item 7), from origin 5 (item 9), and from the empty cans (items 10A and  
17 10 B).

18 Although the lab examination did not identify ignitable liquids, in the four suspected  
19 origin samples, origin four did indicate some similarities to ignitable liquids. Because there are  
20 products in the environment that have similar characteristics too ignitable liquids the lab could  
21 not tell the difference between the submitted suspect origin samples and those items found  
22 naturally or introduced by other methods. The lab report did not exclude the presence of an  
23 accelerant. SA Wischart's use of the Sirchie hydrocarbon detector did positively detect the  
24 presence of an accelerant at the crime scene. SA Wischart told SA Trusler that before deploying  
25 the detector at the Fred's Fire site, she conducted a field test of the unit to check its accuracy. She  
26 tested this unit by taking in close proximity to a vehicle's open gas tank and moving towards it.  
27 The detector did display and audibly alerted as she neared the gas tank. As she moved away from  
28

1 the gas tank the device returned to its non-alarming state.

2 On October 28, 2004, Monterey Forest Service Division Chief Mike Kremke provided  
3 your Affiant the Incident Report summary for Fred's fire. He told me that there were a total of  
4 five injuries sustained as a result of fighting the fire, one minor eye injury and four heat-related  
5 injuries.

#### 6 The Involvement of Underwood

7 On October 4, 2004, U.S. Forest Service Special Agent Mike Goff and I conducted brief  
8 interviews of Underwood as well as his fellow firefighters James K. Hughes and Ryan M. Myers,  
9 at the Arroyo Seco Fire Station. These interviews were conducted in a non-confrontational  
10 manner to illicit basic aspects of each of the fire team member's involvement, either legal or  
11 illegal. It is routine to interview firefighters if arson is suspected. They were not in custody, and  
12 were not advised of their Miranda rights.

13 On October 18, 2004, SA Lee interviewed firefighters Jeffery H. Bailey and Richard D.  
14 Martin. We told the firefighters that we were doing a routine investigation of the Memorial,  
15 Slide, and Fred's fires and asked them questions about their whereabouts relative to those fires.

16 Underwood told us that he took July 27 and July 28, 2004 off work (July 28 was the date  
17 of the Memorial fire). Tuesday, July 27 and Wednesday, July 28 were his regular days off. On  
18 the afternoon of July 27, Underwood claimed, he went to FHL to go swimming and the PX and  
19 then returned to his residence about 4:00 or 5:00 p.m., where he remained for the rest of the  
20 night. The video recording from the sentry gate at FHL conclusively established that this is not  
21 true.

22 As noted, the quickest way for Underwood to get to the site of the Memorial fire from his  
23 house is through the main entrance of FHL. The morning of July 28, Underwood stated, he was  
24 talking to his next-door neighbor when he was approached by Hughes to respond to the  
25 Memorial Fire. Underwood then told us that he and his fellow firefighters responded to the fire at  
26 approximately 8:00 a.m. Underwood and the crew then spent the next three days "mopping up"  
27 the fire.

1 FHL Main Gate surveillance video footage showed Underwood stopped at the Main gate  
2 of FHL driving a red Toyota pickup truck with oversized tires through the FHL entrance on July  
3 27, 2004, at approximately 8:20 p.m., and exiting on July 28, 2004, at approximately 7:00 a.m.  
4 The most direct manner to get to the Memorial Campground from Underwood's residence is  
5 through the FHL main gate. An image of the Toyota's license plate was captured, California  
6 license plate number 5R76293, a later check through DMV showed that it belonged to Craig  
7 Matthew Underwood, 47538 Arroyo Seco Road, Greenfield, California 93927. Further checks  
8 on Underwood indicated that this truck is his only registered vehicle.

9 Underwood is a Forest Service firefighter stationed in close proximity to all three fires.  
10 Underwood exited the FHL main gate about 45 minutes before the Memorial Fire was reported,  
11 just in time to respond with his engine crew to fight the fire.

12 In addition, eyewitnesses place a vehicle matching the description of Underwood's  
13 vehicle the night before the Memorial Fire in the near vicinity of the Memorial fire. On August  
14 17, 2004, your Affiant interviewed witnesses Nathaniel Gillies and Jessica Austin (campers)  
15 about the Memorial Fire. The couple told me that, on July 27, 2004, at approximately 9:00 or  
16 9:30 p.m., they observed a Red Toyota pickup truck with oversized tires pull into the Escondido  
17 campground and then, shortly afterward, leave. The Escondido campground is about two miles  
18 further north from the location of the Memorial fire (and thus the Memorial campground) on  
19 Arroyo Seco/Indians road. Gillies and Austin stated that the truck was driven by a man and that  
20 he was alone. They also said that the truck was the only vehicle that they saw at the Escondido  
21 campground that evening. While fighting the Memorial fire, Underwood assisted Dean in taking  
22 measurements and never disclosed he was in and around the area the night before to other  
23 firefighting personnel or FPT. Underwood was present when Dean and Zimmerman discussed  
24 the results of their interviews with campers at the Escondido campground where the witnesses  
25 said they saw a red in color Toyota pickup truck in the area the night before. Underwood never  
26 disclosed he had a red in color pick up truck. Underwood also told Dean that in the past his  
27 father had taken him to this location.

The second fire, the Slide fire, was reported on August 14, 2004. This fire occurred on the same road as the Memorial and Fred's fire, just five miles from the Arroyo Seco fire station, where Underwood works. The same fire Engine 19 crew, including Underwood responded to the Memorial Fire also responded to the Slide fire.

After the Slide fire, surveillance cameras were placed near the Underwood residence, focusing on his driveway as well as a road at Piney Creek/Ridge (six miles West of Arroyo Seco Road off Carmel Valley Road). In addition, an electronic tracking device, authorized and installed pursuant to a court order, was placed on his vehicle on September 8, 2004.

The next fire that Underwood responded to was the Slide fire, on August 15, 2004. That fire occurred on the same road as the Memorial fire, only five miles from the Arroyo Seco fire station. Underwood told SA's Lee and Goff that he and two other firefighters responded to the Slide fire the morning of August 15. This fire had four origins within close proximity to each other with no active burning. Later that afternoon Underwood responded to another more distant fire, not at issue here, the West 2 Fire.

Underwood told us that on September 21, 2004, the day before the Fred's fire occurred at the Arroyo Seco day use area, that he slept in late and was home until around 4:00 p.m., when he headed to King City, California to go hunting with his father. Underwood told SA's Lee and Goff that he did not return home until the next day, at about 2:00 p.m. Underwood stated that, after unloading his vehicle, he went swimming at about 2:30 p.m. at the Arroyo Seco day use area. While he was swimming, a guy at the day use area approached him and told him that he saw a deer on the hill above the bridge. Around fifteen minutes later, Underwood said he went to his residence and took his gun to look for the deer on hill. He told us that he was up in hill area for about forty minutes. Your affiant has reviewed the surveillance videotape of September 22, 2004 (the day of Fred's Fire) depicting the area showing the driveway of Underwood's residence and did not find any footage showing Underwood carrying a firearm.

Underwood then told us that at approximately 4:00 p.m., he proceeded to Salinas to go shopping at the Northridge Mall and buy movies. He told us that he was there for about one to

1 two hours. He stated he then went to Greenfield, California to go grocery shopping at Nob Hill.  
2 Underwood informed us that, on the way home, his vehicle ran out of gas. According to the  
3 electronic tracking device and business records, on September 22, 2004, at approximately 11:24  
4 a.m. Underwood purchased about \$16 of gas, at the Exxon gas station in King City and at  
5 approximately 8:00 p.m., about eight and one half hours later, Underwood purchased an  
6 additional \$5.00 of gas, which equaled 2.28 gallons at a nearby Shell gas station in Greenfield.  
7 He said he arrived at his residence at approximately 8:30 p.m.

8 Underwood next told us that, almost immediately after returning home, he responded to a  
9 fire at the Arroyo Seco day use area--the Fred's fire. When Underwood arrived at the Arroyo  
10 Seco Day Use area, Captain Hughes assigned Underwood to relay radio traffic to dispatch.  
11 Underwood told us that for the rest of the night he assisted by patrolling the left flank along the  
12 base origin. Underwood worked into the next day, until he was relieved about 12:30 p.m.

13 Underwood's statements to us are contradicted by information from surveillance videos,  
14 the GPS electronic tracking device, and statements he made to others.

15 On September 21, 2004, at approximately 12:30 p.m., the video surveillance shows him  
16 leaving his residence in camouflage clothing, minus a long rifle type firearm, driving toward  
17 Carmel Valley Road. The Piney Creek/Ridge camera showed Underwood in the area at  
18 approximately 1:00 p.m. and leaving Piney Creek at approximately 1:45 p.m. The tracking device  
19 confirms these times and locations.

20 Video surveillance also shows Underwood arriving back at his residence at approximately  
21 2:00 p.m. and then leaving again at approximately 2:30 p.m. on foot wearing shorts, a t-shirt, and  
22 carrying a day pack, again, minus a long rifle type of firearm then heading west toward the  
23 Arroyo Seco day use area. The tape shows Underwood returning on foot, at approximately 2:53  
24 p.m. wearing the same clothes and carrying the day pack. At 2:55 p.m., the tape shows  
25 Underwood, wearing the same clothes and again carrying the day pack, traveling by foot yet  
26 again toward the Arroyo Seco day use (also in close proximity of Fred's Fire location) area. The  
27 surveillance camera does not view Underwood again until approximately 3:35 p.m. At this time  
28



1 he is captured on tape wearing camouflage clothing leaving in his truck heading eastbound on  
2 Arroyo Seco Road (in the opposite direction of the day use and Fred's Fire location area). In  
3 other words, Underwood's statement that he stayed home until around 4:00 p.m., when he left to  
4 go hunting with this father are false—in fact, he repeatedly left the house before 4:00 p.m., each  
5 time walking towards the area wearing only a back pack where the Fred's fire was later set.

6 Underwood is not seen again on the surveillance video until the next day, September 22.  
7 The surveillance video captures him returning to his residence at approximately 12:35 p.m. A  
8 review of the footage (2:05 p.m.) shows some unknown person traveling by foot toward the  
9 Arroyo Seco day use area. It is possible it was Underwood, but we couldn't identify the person.

10 At 15:58 hours, a review of this footage showed an unknown person traveling by foot in  
11 the direction of Underwood's residence. This movement is consistent with the video footage  
12 capture at 2:05 p.m. The surveillance camera did not capture Underwood's return because it is  
13 trained on the driveway and he apparently returned from the back of the house. Behind the house  
14 there is a trail called the "Rocky Trial" that accesses the Arroyo Seco day use area. This trail  
15 cannot be seen by the surveillance camera.

16 There is a chain across Underwood's driveway. It is connected on each end to a wooden  
17 fence. At 16:35 hours, Underwood's is clearly recognizable in the video lowering the chain to the  
18 ground. At approximately 16:36, Underwood entered his car and drove eastbound on Arroyo  
19 Seco Road (away from the day use area) and returned to his residence at approximately 16:50. At  
20 approximately 19:37, Underwood backed out of the driveway and again traveled eastbound on  
21 Arroyo Seco Road. At around 20:10 and 20:20 hours, surveillance video shows fire trucks  
22 driving past Underwood's residence en route to fight Fred's Fire at the Arroyo Seco day use area.  
23 The video then shows Underwood returning to his residence at approximately 20:30 hours. The  
24 GPS electronic tracking device is consistent with these times and locations. Moreover, the  
25 tracking device shows that, contrary to his statements, Underwood was not in Salinas at  
26 Northridge Mall buying movies at approximately 16:00 hours, nor was he at Nob Hill Market in  
27 Greenfield shopping for groceries at approximately 18:00 hours.

1 The fire at the Arroyo Seco day use area, the Fred's fire, was reported around 7:30 p.m.  
2 on September 22. At that time, it had apparently burned about five acres. Special Agent  
3 Wischart estimates that the fire was probably set at least a couple of hours before 7:30 p.m.,  
4 probably around 4:00 p.m. to 6:00 p.m. This, of course, is exactly when Underwood stated  
5 falsely that he was shopping in Salinas and Greenfield. In fact, during this period, Underwood  
6 was recorded at his residence and/or walking toward the Arroyo Seco day use areas where the  
7 fire started.

#### 8 Possible Motives

9 SA Wischart has told your Affiant that through her training and experience she is aware  
10 that it is common for arsonists to revisit the sites of their previous fires. Some motives involved  
11 are reliving the event, sexual gratification, or evaluating effectiveness of their fire design (i.e.,  
12 improving deer habitat, and confirming that they didn't leave any evidence behind). Wischart  
13 told me she reviewed a 2003 USDA Forest Service arson investigation, conducted by USFS Ron  
14 Huxman, who concluded wild land arsonist involved in this type of activity sometimes return to a  
15 vantage point where they could see the sites where he/she had set the fires. They would even plot  
16 them on a map and take photos of their fires as mementos. The GPS tracking device placed on  
17 Underwood's vehicle does not show him returning to any of the scene's after the device was  
18 placed on the vehicle. It is possible he could have returned in foot or on a bicycle.

19 In addition, based on SA Wischart's and my training and experience, serial arsonists, to  
20 maintain their sense of satisfaction, often continue to set fires, weeks, even months, after the first  
21 fires. Agent Wischart is also aware that, although it is not common for firefighters to set arson  
22 fires, it does occur. According to a 2003 FEMA report on Fire Fighter Arson (USFA-TR-  
23 141/January 2003), Fire fighters with the USDA Forest Service have set several wild land fires  
24 within the last few years. The report cited examples from 2000 where a fire safety worker set  
25 fires in Oregon who claimed she set them to earn overtime pay. The report related, that in 2001 a  
26 Forest Service firefighter started several fires in the Cleveland National Forest of California.  
27 According to the report, the fire fighter set the fires for financial gain and to observe fire  
28

1 behavior. In the same report it was noted that in the summer of 2002 two Forest Service  
2 firefighters set two of the largest wildfires in this country's history, the Rodeo fire in Arizona and  
3 the Hayman fire in Colorado. The firefighter who set the Rodeo fire stated he set it for the fire  
4 pay. The employee who set the Hayman fire claimed it was accidental. However, investigators  
5 stated evidence in the Hayman fire was not consistent with an accidental fire and that it was  
6 likely the fire was started for revenge, attention and financial gain.

7 An FBI study on serial arsonists in 1994, concluded that the primary motive for  
8 firefighters to set fires was the need for power and excitement with revenge the least frequent  
9 motive. (T. Huff, Serial Arson Profiling - FBI NCAVC 1994).

### 10 CONCLUSION

11 Based upon all of the facts contained above, including the fact that Underwood spent the  
12 night in the area of the Memorial Fire before it was set the following morning, but did not  
13 disclose this fact to fire investigators; did not disclose that he owned a red Toyota truck with  
14 oversized tires knowing law enforcement was looking for one; that Underwood falsely stated that  
15 he was away from home shopping for movies and groceries (and, separately, that he was hunting)  
16 around the time that the Fred's fire was set, when in fact he was seen walking towards the fire  
17 area during this period without any firearm; that the Slide fire occurred just a few miles away  
18 from the Memorial and Fred's fires and seems to have been set by the same arsonist; the  
19 knowledge that it is not uncommon for arson fires to be set by firefighters; that arsonists  
20 frequently set more than one fire; and that they return to the scenes of their fires; based on this  
21 and other information stated above, your Affiant submits that there is probable cause to believe  
22 that Craig Matthew Underwood has committed a violation of 18 U.S.C. § 1855.

23 Based on the same facts, I believe that there is probable cause to believe that in  
24 Underwood's residence, outbuildings and vehicle there is likely to be found evidence, further  
25 described below, that tends to show the commission of a criminal offence, *to wit*: a violation of  
26 18 U.S.C. § 1855.

27 I believe that there is probable cause to believe that in Underwood's residence,  
28

1 outbuildings, and vehicle we will find terry cloth towels with the SKU numbers provided by K-  
2 Mart, and similar in nature to the partially burned one found at the Slide fire site; a marble with  
3 green swirl that was removed from the Fred's Fire crime scene; a backpack, similar to a  
4 recreational day pack, without an internal or external frame that Underwood was seen wearing on  
5 September 21, 2004, as he departed towards the Arroyo Seco day use area; boots with soles  
6 matching the footprints found at the Fred Fire, and hydrocarbon based accelerants.

7 Finally, SA Wisehart told your Affiant that based on her training, experience and  
8 education, that arsonists commonly possess in their residences, outbuildings and motor vehicles  
9 all items listed in Attachment B. These items include incendiary devices; photographs; pictures,  
10 drawings and video tapes of fires they set; letters, newspaper collections, or personal diaries  
11 mentioning the occurrence of the fires, which may be stored on computers and hard drives and  
12 any related disks; books; other written material containing arson related information; reports  
13 and/or memoranda regarding their activities on the day of the fires.

14 I believe that probable cause exists to believe that Craig Matthew Underwood has  
15 committed violations of Title 18, U.S.C. § 1855.

16 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
17 knowledge.

18  
19 Subscribed and sworn to before me this

20 \_\_\_\_\_ day of \_\_\_\_\_, 2004

21  
22  
23 HONORABLE RICHARD SEEBORG  
24 United States Magistrate Judge

**ATTACHMENT A  
DESCRIPTION OF PREMISES**

The premises located at 47538 Arroyo Seco Road, Greenfield, CA; further described as a single story browning/tan color structure located on Arroyo Seco Road, Greenfield, CA. The structure is constructed with wood and has an attached two-car garage. The structure is further described as having a shingle roof. Also there is a wood fence connected by steel chain link in front of the residence. The premise to be searched is directly adjacent to the Arroyo Seco fire station. The numbers 47538 appeared in black letter on the front of the residence.

One 1986 red Toyota pickup truck license plate number 5R76293 registered to Craig Matthew Underwood containing vehicle identification number JT4RN67D9G5013590.

**ATTACHMENT B**  
**DESCRIPTION OF ITEMS TO BE SEIZED**

A dime sized clear marble, with a green swirl

SKU tags not attached to merchandise bearing numbers, 0-457228-11-2, 7-69779-03114-0, 7-69779-03117-1, 7-69779-03115-7, 7-69779-03118-8, 7-69779-03116-4, and 7-69779-03119-5

Towels bearing SKU numbers 0-457228-11-2, 7-69779-03114-0, 7-69779-03117-1, 7-69779-03115-7, 7-69779-03118-8, 7-69779-03116-4, and 7-69779-03119-5

A backpack, similar to a recreational day pack, without an internal or external frame

Boots with soles matching the footprints left at the Fred Fire

Any and all types of accelerants.

Any and all documents and records that relate to Craig Matthew Underwood's training, experience, duties, and responsibilities as a firefighter for the U.S. Forest Service to include information concerning prevention, suppression and the behavior of, or the investigation of causes and origins of, forest or wildland fires.

Any and all documents and records generated by Craig Matthew Underwood concerning his activities related to the Memorial, Slide, and Fred Fire, between July 28 and September 22, 2004.

Any and all documents and records that relate to violations of U.S. Forest Service regulations, orders, or federal statutes, including but not limited to prohibitions on use or maintaining fires on National Forest System lands, investigated in part or in whole by Craig Matthew Underwood, including but not limited to Violation Notices, Incident Reports, and any notes generated by Craig Matthew Underwood relating thereto.

Any and all incendiary devices,

Cameras containing digital media or regular film photographs,

Pictures or drawings depicting fires, including, video tapes, and/or undeveloped film;

Letters, newspaper collections, or personal diary entries mentioning the occurrence of illegally set fires or the observation of fire behavior, which may be stored on computers and hard drives and any related disks;

Books or written material for arson related information,

Reports or memoranda regarding Underwood's activities on the days immediately preceding, during and after the three suspected arson fires,

Documents indicating Underwood's physical locations between July 28, 2004, and September 22, 2004.